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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,919	07/17/2003	Alan G. Noraker	1162-227	2754

7590 08/29/2005

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EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,919

Applicant(s)

NORAKER, ALAN G.

Examiner

Kurt Rowan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7-17-2003</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 20, 2004 has been entered.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5, 9, 10, 12, 13, 14, 15, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Fleming for substantially the same reasons stated in the first Office Action.

The patent to Fleming shows a fishing line container having a first flap 10,12 having an outer area and an inner area. Fleming shows a first strap having a single strap element of two parts 16, 18; having an attached end and being defined by an open state and a closed state. The strap being usable to join a first spool to the flap when the strap is in a closed state. Fleming shows the first strap interconnected to the inner area 10 of the

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first flap. Fleming shows the first strap having an open state and a closed state.

Fleming shows the first strap having an attaching end which is the end attached to area 12 of the flap. In the closed state, the attaching end being interconnected to the inner area of the first flap by way of the attached end of the first strap. In reference to claim 5, Fleming shows a flap with a hinged section 12 and a movable section 10 with the attached end of the strap being closer to the movable section than to the hinged section. In reference to claim 9, Fleming shows a cover 48. In reference to claim 13, Fleming shows a second cover 50 having a first connection segment 54 joined to the flap by way of edge portion 52. Fleming shows a second connection segment 40, 44, 36 joined to the flap adjacent the first connection segment. In reference to claim 14, Fleming shows a flap with a hinged section 12 with hinge 14 at the junction between the hinged section 12 and the section 10 is a slot that forms an access hole adjacent the hinged section for receiving fishing line. In reference to claim 15, Fleming shows a primary container 22. In reference to claim 16, Fleming shows a support subassembly 56, 58.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fleming as applied to claim 1 above, and further in view of Uso, Jr.

The patent to Fleming shows a fishing line and tackle container as discussed above.

Fleming shows a strap as a belt with a buckle. The patent to Uso shows a Velcro strap to retain fishing equipment. In reference to claim 4, it would have been obvious to provide Fleming with a Velcro strap as shown by Uso since merely one mechanical equivalent strap is being substituted for another and the function is the same.

5. Claims 6-7, 8, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleming.

The patent to Fleming shows a fishing line and tackle container as discussed above. Fleming does not show that the lateral extent of the inner area having a length and the length of the first strap greater than one-half the length of the lateral extent. However, it would have been obvious to employ a first strap length greater than one-half the lateral extent since changes in size are obvious. See *In re Rose*, 105 USPQ 137. In reference to claim 7, Fleming shows one strap but it would have been obvious to employ two straps for multiplied effect. See *In re Harza*, 124 USPQ 378. In reference to claim 8, Fleming shows what appears to be a stitched connection between the belt or strap and the inner wall 10. Fleming shows a snap connection 58 to shut the tackle box. It would have been obvious to employ a snap connection is merely one connection is being substituted for another and the function is the same.

6. Claims 1, 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiser in view of Schloss.

The patent to Kiser shows a fishing line container having a flap 12 having an inner area and an outer area. Kiser shows at least a first strap 46, 46 having an attached end and

being defined by a single state since the strap does not appear to move. The strap being usable to join a first spool 44 to said flap when the first strap is in its single state. The patent to Schloss shows a spool of line 4 having a strap 5 being usable to join the spool to flap 1 when in a closed state as shown in Fig. 2. The open state is shown in Fig. 1. In reference to claims 1 and 17, 19, it would have been obvious to provide the fishing line and tackle container of Kiser with a strap as shown by Schloss since merely one strap is being substituted for another and the function is the same. Since the strap frictionally holds the line, pulling the line from the spool causes tension in the line due to the force between the line and the strap. Schloss shows the both the first and second section of the spool having the strap wrapped around the spool, but it would have been obvious to leave the second section of the spool free from the strap such as for example in situations when the spool is too thick for the strap to wrap around the second section which would be the top section in Fig. 2 or to bypass the bottom section of the spool and wrap the strap around the top section only which would result in the subject matter of claim 19. It should be pointed out that an omission of an element with consequent loss of its function is obvious. See *In re Kuhle*, 188 USPQ 7. Kiser shows a cover 16, 21 overlying the first spool as shown in Fig. 3. Kiser shows positioning at least portions of the first spool under the cover. It appears that the method shown by Kiser as modified by Schloss inserts the strap while the bore is located outwardly of the cover or how could the strap be inserted into the bore if the cover was closed? In reference to claim 23, Schloss shows in the closed state, a first surface of the strap at a first location along the strap is adjacent the first surface of the strap at a second location

along the strap. In reference to claim 24, Schloss shows the area of the strap in the closed state having a length that is less than a diameter of the spool since the distance between 2 and 2a plus 3 and 3a is less than the distance between 3 and 2a as shown in Fig. 1.

Response to Arguments

Applicant's arguments filed June 8, 2005 have been fully considered but they are not persuasive. Applicant's amendments to the specification and drawings overcome the objections as stated in the last Office Action. Applicant argues that Flemming does not show all the elements recited in claim 1. However, this is not the case since Flemming shows a strap element 16, 18 which can be considered as a single strap element having two parts and also, with strap 20, 54 (which is used to close the pivoting members as shown in Figs. 1-2) also being considered a single strap element with two parts. Applicant further uses the open-ended term "comprising" which means that the reference can have more elements than recited. The flap elements 10, 12 of Flemming are interconnected by the sidewalls of the container 6 and the claim 1 of the present invention does not preclude a second flap. Therefore the strap element with two parts is therefore also form a loop in which both ends are fixed to interconnected to a first flap. In reference to claim 3, Flemming discloses a single strap element (having two parts) that has first and second mating elements that are joined together when the first strap is in the closed state. Applicant should recite the snap structure inconjunction with the strap. In reference to claim 9, Flemming shows cover 48 which is affixed over side edge portion 52 (which connects to swingable portion 12) and a sleeve or pocket is

formed between the bottom of cover 48 and flap 50 and the top of swingable portion 52. A sleeve or pocket is also formed between the bottom of cover 48 and the space between pouch 22 and part 6 which is pivoting part of the dual construction. In reference to claim 14, the top 52 of the swingable portion connects to flap portion 12 and a first access hole can be considered to be the slot between top 48, 50 and the top 52 of the swingable portion. The outer surface of the swingable portion includes a first piece of material which is connected to first flap 12. The access hole can be considered to be within a perimeter of the first piece of material since the slot between the cover and swingable portion extends within the perimeter of the container edge. In reference to claims 4, 6-8, 11, and 17-24, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Also, in reference to claim 17, Schloss shows forming a loop as shown in Figs. 2-3. In reference to claim 23, Schloss shows a first surface of a strap at a first location along the strap being adjacent the first surface of the strap at a second location along the strap, wherein in a closed state, the first and second locations are not within an outside diameter of the first spool" noting the inside surface of the tongue just above the top of line loop 4, as shown in Fig. 3.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is (571) 272-6893. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 (until September 15, 2005) or 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink that reads "Kurt Rowan". The signature is fluid and cursive, with a checkmark-like flourish at the end.

Kurt Rowan
Primary Examiner
Art Unit 3643

KR